

Internal Revenue Service

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Person To Contact: _____, ID No. _____

Telephone Number: _____

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CC:PSI:B03
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PLR-136248-16
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Date:
February 16, 2017

LEGEND

X =

Y1 =

Y2 =

Y3 =

Y4 =

State =

Date1 =

Date2 =

Date3 =

Date4 =

Dear _____ :

This responds to a letter dated November 8, 2016, submitted on behalf of X by its authorized representative, requesting extensions of time under § 301.9100-3 to make late elections on behalf of Y1, Y2, Y3 and Y4 to be qualified subchapter S subsidiaries (“QSubs”) under §1361(b)(3)(B)(ii) of the Internal Revenue Code (“Code”) and § 1.1361-3 of the Income Tax Regulations.

The information submitted states that X was formed under the laws of State on Date1 and filed an election to be an S corporation effective Date1. On Date2, all of the ownership interests in Y1, Y2, Y3 and Y4 were transferred to X. X had intended to elect to treat Y1, Y2, Y3 and Y4 as QSubs effective as of Date2. However, due to inadvertence, X failed to timely file Forms 8869, Qualified Subchapter S Subsidiary Election, on behalf of Y1, Y2, Y3 and Y4 to be effective Date2. After discovering this failure, on Date3 X filed Forms 8869 on behalf of Y1, Y2, Y3 and Y4 to elect to be treated as QSubs effective as of Date4. X now seeks relief to make late QSub elections on behalf of Y1, Y2, Y3 and Y4 to be effective as of Date2.

X represents that X and Y1, Y2, Y3 and Y4 have filed tax returns for all of the relevant tax years consistent with the income tax treatment of Y1, Y2, Y3 and Y4 as QSubs from Date1.

Section 1361(b)(3)(A) of the Internal Revenue Code (Code) provides that a QSub shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines a QSub as a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is owned by the S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making an election to be classified as a QSub. Section 1.1361-3(a)(4) provides that an election to treat an eligible subsidiary as a QSub may be effective up to two months and 15 days prior to the date the election is filed or not more than 12 months after the election is filed. The proper form for making the election is Form 8869.

Section 1.1361-3(a)(6) provides that an extension of time to make a QSub election may be available under procedures applicable under §§ 301.9100-1 and 301.9100-3.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the

Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and that (2) the grant of relief will not prejudice the interests of the Government.

Based solely upon the information submitted and the representations made, we conclude that the requirements of § 301.9100 have been satisfied. Accordingly, X is granted an extension of time of 120 days from the date of this letter to file Forms 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center, on behalf of Y1, Y2, Y3 and Y4 effective Date2. A copy of this letter should be attached to each Form 8869. Copies are enclosed for that purpose.

Except for the specific rulings above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Internal Revenue Code. Specifically, we express no opinion regarding whether Y1, Y2, Y3 and Y4 meet the definition of a QSub under § 1361(b)(3)(B).

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending copies of this letter to X's authorized representatives.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (3)

Copies of this letter

Copy for § 6110 purposes